

# SENATE JOURNAL

OF THE

## IDAHO LEGISLATURE

FIRST REGULAR SESSION  
FIFTY-EIGHTH LEGISLATURE

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**THIRTY-EIGHTH LEGISLATIVE DAY  
WEDNESDAY, FEBRUARY 16, 2005**

Senate Chamber

President Risch called the Senate to order at 10:30 a.m.

Roll call showed all members present except Senator Gannon, absent and formally excused by the Chair; and Senators Bunderson, Cameron, Hill, Keough, Langhorst, Lodge, Marley, McGee, Pearce, Richardson, Stennett, Sweet, and Werk, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by Jennie Nelson, Page.

The Senate advanced to the Third Order of Business.

### Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 15, 2005, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

### Reports of Standing Committees

Senator Stennett was recorded present at this order of business.

February 15, 2005

The TRANSPORTATION Committee reports out **S 1091** with the recommendation that it do pass.

BRANDT, Chairman

**S 1091** was filed for second reading.

February 15, 2005

The COMMERCE AND HUMAN RESOURCES Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

R. John Taylor to the Idaho Endowment Fund Investment Board, term to expire April 11, 2008.

ANDREASON, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 16, 2005

The LOCAL GOVERNMENT AND TAXATION Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

David E. Kinghorn to the State Board of Tax Appeals, term to expire June 30, 2007.

BUNDERSON, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

### Messages from the House

Senators Bunderson, Cameron, Hill, Keough, Langhorst, Lodge, Marley, McGee, Pearce, Richardson, Sweet, and Werk were recorded present at this order of business.

February 15, 2005

Mr. President:

I transmit herewith **H 106, H 23, H 132, and H 133** which have passed the House.

JUKER, Chief Clerk

**H 106, H 23, H 132, and H 133** were filed for first reading.

February 15, 2005

Mr. President:

I return herewith **S 1003 and SCR 105** which have passed the House.

JUKER, Chief Clerk

**S 1003** and **SCR 105** were referred to the Judiciary and Rules Committee for enrolling.

February 15, 2005

Mr. President:

I transmit herewith Enrolled **H 10** and **H 14** for the signature of the President.

JUKER, Chief Clerk

The President signed Enrolled **H 10** and **H 14** and ordered them returned to the House.

The Senate advanced to the Tenth Order of Business.

### Motions and Resolutions

The President announced that **SCR 107** was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Broadsword, seconded by Senator Werk, **SCR 107** was adopted by voice vote, title was approved, and the resolution ordered it transmitted to the House.

The President announced the Education Committee report relative to the Gubernatorial appointment of Paul Powell to the Public Charter School Commission was before the Senate for final consideration.

Moved by Senator Noble, seconded by Senator Goedde, that the report of the Education Committee be adopted. The question being, "Shall the motion prevail?"

Roll call vote was requested by Senators Schroeder, Marley, and Werk.

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Geddes, Goedde, Hill, Jorgenson, Keough, Little, Lodge, Malepeai, McGee, McKenzie, Noble, Pearce, Richardson, Stegner, Sweet, Williams. Total - 27.

NAYS--Kelly, Langhorst, Marley, Schroeder, Stennett, Werk. Total - 6.

Absent and excused--Burkett, Gannon. Total - 2.

Total - 35.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced the Education Committee report relative to the Gubernatorial appointments of William Goesling, and Marianne Donnelly was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Schroeder seconded by Senator Marley, the Gubernatorial appointment of William Goesling as a member of the Public Charter School Commission was confirmed by voice vote.

On motion by Senator Marley, seconded by Senator Pearce, the Gubernatorial appointment of Marianne Donnelly as a member of the Public Charter School Commission was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare letters of the Gubernatorial appointment confirmations for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

### Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

**H 106**, by Environment, Energy, and Technology Committee, was introduced, read the first time at length, and referred to the Resources and Environment Committee.

**H 23**, by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

**H 132** and **H 133**, by Resources and Conservation Committee, were introduced, read the first time at length, and referred to the Resources and Environment Committee.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fourteenth Order of Business.

### General Calendar

The President declared the Senate resolved into the Committee of the Whole and called Senator Stegner to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the President called the Senate to order.

### Report of the Committee of the Whole

Senator Stegner, Chairman of the Committee of the Whole, reported out **S 1030**, without amendment and without recommendation; and **S 1039**, **S 1074**, **S 1076**, **S 1063**, **S 1062**, **S 1071**, **H 11**, and **S 1057**, without recommendation, amended as follows:

**SENATE AMENDMENT TO S 1039**

## AMENDMENT TO SECTION 1

On page 1 of the printed bill, delete lines 34 through 36 and insert: "be as permitted by law, and the Idaho rules of civil procedure.".

**SENATE AMENDMENT TO S 1074**

## AMENDMENTS TO SECTION 1

On page 1 of the printed bill, delete line 12 and insert: "illegal in the state of Idaho. Notwithstanding any other provision of law to the contrary, the provisions of this section shall not be"; and in line 16, following the first "and" delete "such" and insert: "such horse and dog race"; and in line 20, following "licensee." insert: "Under no circumstances shall the provisions of this section or section 54-2512, Idaho Code, be used to grant more than one (1) license to conduct simulcast pari-mutuel wagering in any county.".

## CORRECTION TO TITLE

On page 1, in line 5, following "COMMISSION" insert: "AND TO CLARIFY THAT NO MORE THAN ONE LICENSE CAN BE GRANTED TO CONDUCT SIMULCAST PARI-MUTUEL WAGERING IN ANY COUNTY".

**SENATE AMENDMENT TO S 1076**

## AMENDMENTS TO SECTION 1

On page 1 of the printed bill, in line 21 delete "be from" and insert: "consist of one (1) member from each of"; in line 22 delete "finance including," and insert: "finance, including"; and in line 23, delete "but not limited to,".

**SENATE AMENDMENT TO S 1063**

## AMENDMENTS TO SECTION 1

On page 1 of the printed bill, in line 14, following "(\$1,000)." insert: "or a combination of the damages caused to the vehicle and the value of property taken exceeds one thousand dollars (\$1,000)."; and in line 23, following "(\$1,000)." insert: "or a combination of the damages caused to the vehicle and the value of property taken exceeds one thousand dollars (\$1,000).".

**SENATE AMENDMENT TO S 1062**

## AMENDMENTS TO SECTION 1

On page 1 of the printed bill, in line 11, delete "a household member" and insert: "another individual"; and delete lines 19 and 20.

## AMENDMENT TO THE BILL

On page 1, following line 20, insert:

"SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.".

## CORRECTION TO TITLE

On page 1, delete line 5 and insert: "DEFINE A TERM; AND DECLARING AN EMERGENCY.".

**SENATE AMENDMENT TO S 1071**

## AMENDMENT TO SECTION 1

On page 6 of the printed bill, in line 12, delete "This section shall not be" and insert: "Except as provided in section 12-117, Idaho Code, this section shall not be".

**SENATE AMENDMENT TO H 11**

## AMENDMENT TO SECTION 1

On page 1 of the printed bill, in line 21, following "commission" insert: ". At least one (1) week before each quarterly website posting of such list, the administrator shall publish a notice in the official newspaper of each Idaho county stating when and where the quarterly website listing of Idaho abandoned property will be accessible to citizens.".

**SENATE AMENDMENT TO S 1057**

## AMENDMENT TO SECTION 1

On page 1 of the printed bill, delete lines 20 and 21 and insert: "and walk or run into the path of a vehicle which is so close as to constitute".

## CORRECTIONS TO TITLE

On page 1, in line 6, delete "TO CLARIFY A PEDESTRIAN'S RESPONSIBILITY WHEN LEAVING"; and in line 7, delete "A CURB OR OTHER PLACE OF SAFETY,".

The Committee also has **S 1036** under consideration, reports progress, and begs leave to sit again.

STEGNER, Chairman

On motion by Senator Stegner, seconded by Senator Stennett, the report was adopted by voice vote.

**S 1030** was returned to the Thirteenth Order of Business, Third Reading of Bills.

**S 1039**, as amended, **S 1074**, as amended, **S 1076**, as amended, **S 1063**, as amended, **S 1062**, as amended, **S 1071**, as amended, and **S 1057**, as amended, were referred to the Judiciary and Rules Committee for engrossing and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

**H 11**, as amended in the Senate, was filed for first reading as amended, and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

**Miscellaneous Business**

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 11:55 a.m. until the hour of 11 a.m., Thursday, February 17, 2005.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary